

NOTE: This disposition is nonprecedential.



United States Department of the Interior  
Office of Hearings and Appeals  
Interior Board of Land Appeals  
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January 5, 2016

IBLA 2009-5	)	UTU-82909
	)	
KENNECOTT EXPLORATION CO.	)	Section 202 Conveyance Application
	)	
	)	Appeal Dismissed as Moot

ORDER

On October 6, 2008, Kennecott Exploration Co. (KEC) filed a notice of appeal, petition for a stay, and a statement of reasons in support of its appeal from a September 23, 2008, letter issued by the Salt Lake Field Office (Utah) Bureau of Land Management (BLM). In the letter, BLM notified Salt Lake County that the agency intended to publish a Notice of Realty Action (NORA) in the *Federal Register*, which would temporarily segregate lands described in the County's application (UTU-82909)<sup>1</sup> to acquire Federally-owned mineral interests underlying 1,171 acres of the County's surface estate. KEC holds 11 unpatented lode mining claims that encumber the mineral estate sought by the County.

On November 7, 2008, the parties jointly requested the Board to suspend this case from our active docket because they were attempting to resolve the reasons for KEC's appeal. By Order dated November 17, 2008, the Board suspended the proceedings and required the parties to file a status report by January 16, 2009. The Board further directed the parties to file status reports at 60-day intervals thereafter until either they reached an agreement or informed the Board that negotiations were unsuccessful. The parties have indicated in the status reports filed with the Board that their negotiations remain ongoing.

The Board suspends cases only for valid and compelling reasons, *i.e.*, to facilitate the parties' settlement talks. Once suspended, the case cannot remain on our inactive docket indefinitely. Thus, when the Board suspends a case to enable settlement talks, the Board will periodically examine the case file and the status

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<sup>1</sup> The County submitted to BLM its application to acquire the mineral estate at issue pursuant to section 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1719(b) (2012).

reports to determine whether the parties' attempts to resolve disputes are active and productive.

Our review discloses the disputed matter on appeal, *i.e.*, whether BLM erroneously decided to segregate the United States' mineral interests from lands encumbered by KEC's mining claims, has become moot. *See* Statement of Reasons at 3 (The NORA "will result in a segregation of the federal minerals in the Subject Lands, which may adversely affect KEC's rights and operations on its unpatented mining claims."), 6 ("KEC is concerned that the segregation may work in ways that create a cloud on KEC's unpatented mining claims or be used as an argument to limit KEC's legitimate operations on such claims. . . ."). Ordinarily, an appeal must be dismissed as moot where, as a result of events occurring after the appeal is filed, there is no effective relief the Board can give an appellant. *See Robert C. Lewis*, 173 IBLA 284, 293-94 (2008).

In this case, BLM published the NORA on October 9, 2008. *See* 73 Fed. Reg. 59645. The 2-year segregation of the attendant mineral estate affected by the NORA's publication expired on October 9, 2010. *See* 43 C.F.R. §§ 2091.3-1(c), 2091.3-2(a)(2). Because BLM's decision to publish a NORA became moot when the NORA's segregative effect terminated by operation of law, there is no longer a justiciable controversy for the Board to resolve. Consequently, we must dismiss the appeal.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the appeal is dismissed as moot.

/s/

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Eileen G. Jones  
Chief Administrative Judge

I concur:

/s/

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Amy B. Sosin  
Administrative Judge